

1 Douglas L. Johnson (SBN 209216)  
2 Daniel B. Lifschitz (SBN 285068)  
3 Aleeza L. Marashlian (SBN 332751)  
4 **JOHNSON & JOHNSON LLP**  
5 439 North Canon Drive, Suite 200  
6 Beverly Hills, California 90210  
7 Telephone: (310) 975-1080  
8 Facsimile: (310) 975-1095  
9 Email: djohnson@jllplaw.com  
10 dlifschitz@jllplaw.com  
11 amarashlian@jllplaw.com

12 *Attorneys for Defendant*  
13 KEVIN FRAZIER PRODUCTIONS, INC.

14 Chosen Figure LLC,

15 Plaintiff,

16 vs.

17 Kevin Frazier Productions, Inc.,

18 Defendant.

19 Case No. 2:22-cv-06518 MEMF (MAAx)

20 **NOTICE OF MOTION AND MOTION**  
21 **TO DISMISS COMPLAINT**

22 [Memorandum of Points and Authorities in  
23 Support Thereof, Request for Judicial  
24 Notice, and Declaration of Aleeza L.  
25 Marashlian with Exhibits 1-2 filed  
26 concurrently]

27 Date: January 19, 2023

28 Time: 10:00 a.m.

Date: 8B

Judge: Hon. Maame Ewusi-Mensah  
Frimpong

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT, ALL PARTIES,**  
2 **AND THEIR ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that on January 19, 2023 at 10:00 a.m., or as soon  
4 thereafter as the matter may be heard, in Courtroom 8B of the above-entitled Court,  
5 located at the United States Courthouse, 350 West First Street, Los Angeles, CA  
6 90012, defendant Kevin Frazier Productions, Inc. (“Defendant”) will, and hereby  
7 does, move the Court for an order dismissing the sole cause of action alleged in  
8 Plaintiff Chosen Figure LLC’s (“Plaintiff”) complaint pursuant to Federal Rules of  
9 Civil Procedure, Rule 12(b)(6) for failure to state a claim upon which relief can be  
10 granted.

11 Defendant’s grounds for making the instant motion are that Defendant’s use  
12 of the photograph upon which Plaintiff has brought suit constitutes fair use under  
13 section 107 of Title 17 of the United States Code.

14 This motion is made following the conference of counsel pursuant to Local  
15 Rule 7-3 which took place on Wednesday, November 16, 2022.

16 This Motion is based on this Notice of Motion and Motion, the concurrently  
17 filed Memorandum of Points and Authorities, the concurrently-filed Request for  
18 Judicial Notice and Declaration of Aleeza L. Marashlian with Exhibits 1-2, and any  
19 further evidence or argument that may be received by the Court at or before the  
20 hearing on this Motion.

21  
22 Dated: November 28, 2022

**JOHNSON & JOHNSON LLP**

23 By /s/ Douglas L. Johnson  
24 Douglas L. Johnson  
25 Daniel B. Lifschitz  
26 Aleeza L. Marashlian  
27 *Attorneys for Defendant*  
28